

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: April 26, 2010
POSITION: Oppose

BILL NUMBER: AB 2299
AUTHOR: S. Blakeslee

BILL SUMMARY: Air Resources Board: Rules and Regulations: Impacts

This bill would require the Air Resources Board (Air Board) to complete and place into the rulemaking record a related impacts analysis for any proposed adoption, amendment, or repeal of a major regulation (defined as a regulatory change that would have an adverse economic impact on California business enterprises and/or individuals in an amount exceeding \$10,000,000 annually). The bill would authorize a person to request the Air Board to submit the related impacts analysis for external peer review in accordance with specified requirements.

Finally, the bill would authorize the Air Board to assess a fee up to \$500 on a external peer review requester to cover the request's administrative processing costs and would allow the Air Board, upon execution of an enforceable agreement with the external peer review requester, to require that person to reimburse the state board for all costs associated with conducting the external peer review.

FISCAL SUMMARY

The Air Board estimates that implementation of this bill would require between \$894,000 and \$1,438,000 Air Pollution Control Fund (APCF) annually, including three to five staff to oversee the required peer reviews, and conduct, in conjunction with consultants, the required "related impacts analysis" by economic sector.

Finance notes that the cost to provide the required "related impacts analysis" (estimated at between \$333,000 and \$537,000 APCF annually) would be borne by the Air Board. However, the bill's language indicates that the remainder of the Air Board's estimated fiscal impact related to external peer review oversight staffing could presumably be funded from the bill's reimbursement authority. Language in one section of the bill would provide the Air Board authority to collect funds from the peer review requester for "...all costs associated with conducting the external peer review."

COMMENTS

The Department of Finance is opposed to this bill for the following reasons:

- The bill would impose additional ongoing costs upon the Air Board to conduct "related impacts analysis" as defined, without providing funding to cover the costs of the workload. The APCF is fully subscribed to support existing program activities, with the exception of uncertain amounts of one-time penalty revenues from violators of air quality laws and regulations. The use of one-time APCF penalty revenue to support ongoing regulatory development efforts does not represent prudent fiscal policy.
- The bill's proscriptive requirements related to the external peer review process could considerably delay the Air Board's adoption of regulations aimed at ensuring that state and federal air quality standards are met, potentially putting the state out of compliance with federal air quality requirements.

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Analyst/Principal (0623) K. DaRosa	Date	Program Budget Manager Karen Finn	Date
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Department Deputy Director	Date
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Governor's Office:	By:	Date:	Position Approved _____
			Position Disapproved _____

BILL ANALYSIS	Form DF-43 (Rev 03/95 Buff)
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COMMENTS Continued

- The cost estimate provided by the Air Board to prepare the “related impacts analysis” represents the cost for only one iteration of the analysis. The bill requires that the related impacts analysis be in the rulemaking record when the proposed rulemaking is made available for public workshop or review. However, the Air Board may have many workshops on different preliminary versions of a rulemaking as it seeks feedback from stakeholders and adjusts the rulemaking based on comments and new information. The bill could be interpreted to require that each version of a rulemaking heard in a workshop be provided its own “related impacts analysis” at a considerably greater Air Board cost.

The bill is intended, via the mechanism of external peer review, to ensure that the potential impacts of major Air Board regulations on other state agencies, on short-term and long-term in-state jobs in individual sectors of the state's economy, and on revenues to the General Fund or to special funds within the state treasury are accounted for during the Air Board's regulatory process, ensuring that the state's air quality regulations are based on the best available information.

		SO	(Fiscal Impact by Fiscal Year)						
Code/Department	LA	(Dollars in Thousands)							
Agency or Revenue	CO	PROP							Fund
Type	RV	98	FC	2009-2010	FC	2010-2011	FC	2011-2012	Code
3900/Air Res Bd	SO	No		--	C	\$447 - 719	C	\$894 - 1,438	0115
<u>Fund Code</u>	<u>Title</u>								
0115	Air Pollution Control Fund								